

North Charleston Police Department Policy and Procedure Manual

Policy#0-41



Subject: Video and Audio Recording Equipment	Issue/Rev. Date: May 15, 2018
Approved by: <i>Reginald L. Burgess</i>	Effective Date: May 29, 2018
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I. Purpose

This policy is to establish guidelines for the use, management, and storage of audio/video media recorded by both in-car and body worn cameras when utilized in law enforcement activities.

II. Policy

It is the policy of the North Charleston Police Department that officers will activate audio/video recording equipment when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in under-cover operations.

III. Procedure

A. Administration

1. This agency has adopted the use of audio/video recording equipment to accomplish several objectives. The primary objectives are as follows:
 - (a) Audio/video recording equipment allows for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
 - (b) Audio/video recording equipment also enhances this agency's ability to review probable cause for arrest, officer and suspect interaction, evidence for investigative and prosecutorial purposes, and to provide additional information for officer evaluation and training.
 - (c) Audio/video recording equipment may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

B. Vehicle Video Camera

1. Officers who have, or utilize, vehicles equipped with mobile video recording (MVR) equipment will adhere to the following operating procedures:
 - (a) MVR equipment installed in department vehicles will be the responsibility of the officer to whom the vehicle is assigned. The MVR will be maintained according to the manufacturer's instructions, which will be provided by the Support Services Bureau.
 - (b) Prior to each shift, officers assigned to a vehicle equipped with a MVR will inspect the equipment. Officers will provide written notification, such as an email or memorandum to their immediate supervisor, of any defect in the operation of the equipment. The immediate supervisor will forward the memorandum to the Support Services Bureau. Repairs to equipment will be made by authorized technicians and documented in maintenance records.
 - (c) Officers will ensure that they are properly logged into digital MVR systems prior to beginning their tour of duty. Should an officer be unable to login into the system they will notify their immediate supervisor who will contact the Technology Coordinator or designee, if available.
 - (d) MVR equipment will automatically activate when the vehicle's emergency warning devices are in operation. Digital MVR equipment will automatically activate and remain on when the vehicle's speed exceeds 80 mph. The equipment may be manually deactivated during non-enforcement activities such as when protecting accident scenes from vehicular traffic.

- (e) Video camera equipment should be used to record the actions of suspects and officers during interviews, field sobriety checks, custodial arrests, and any other incidents in an effort to document crime scenes, accident scenes, evidence, or contraband.
- (f) Officers will ensure that their vehicle video camera and wireless microphone is operating during traffic stops and other calls for service where the use of video/audio evidence may be beneficial.
- (g) Officers will attempt to properly position their camera to record the event and will not deactivate their recorder until the law enforcement action is completed.
- (h) Officers will not erase, reuse, or alter digital mobile video recordings in any manner.
- (i) Officers are responsible to ensure that they are equipped with an adequate supply of digital media storage space to complete their tour of duty.
- (j) Digital Mobile Video Recordings containing information that may be of value for case prosecution will be secured by the officer as evidence and placed into the North Charleston Police Department Property Room in accordance with Policy O-08 (Property and Evidence).
- (k) Digital media files containing information that may be of value for case prosecution will be identified appropriately and then transferred to Digital Video Disc (DVD) via a department DVD burner. DVD discs will be labeled with the related case number, incident date, and the investigating officer's name. These discs will then be secured and placed into the North Charleston Police Department Property Room in accordance with Policy O-08 (Property and Evidence). Supervisors with the rank of Sergeant and above are authorized to export DVD disks. Officers are authorized to export DVD disks for evidence purposes only.
- (l) Officers will document in incident, arrest, and related reports when MVR recordings were made during the incident in question.
- (m) Officers will inform their supervisor of any recorded sequences that may be useful for training purposes. All MVR recordings may be viewed and utilized for training purposes as determined by the Training Section.
- (n) All recording media, recorded images and audio recordings created by digital MVR equipment is the property of the North Charleston Police Department. Recorded media may be disseminated to courts, prosecutors, and other law enforcement agencies for the purpose of court proceedings and investigations. Duplication or dissemination of audio/video recordings outside of the agency is prohibited without the prior approval of the Chief of Police or his/her designee or in accordance with the provisions of State Law.

2. Digital media control and management.

- (a) Digital Systems
 - (1) The digital MVR system used by the department is equipped with a locked media vault and is designed to normally operate wirelessly without the physical transfer of media cards. Access to the media vault is restricted to personnel from the Office of Professional Standards, Administrative Services Unit Supervisors, and those personnel designated by the Support Services Bureau Commander as digital MVR system administrators,
 - (2) Digital MVR media files that are not of evidentiary value will be wirelessly transferred from vehicles and stored on the network server prior to the end of an officer's work cycle. Should a situation arise where the vehicle cannot be physically placed within range of a wireless transfer site, such as an accident involving a police vehicle, digital media cards will be removed from the vehicle by an MVR system administrator and uploaded manually.
 - (3) Supervisors will randomly review a minimum combination of five (5) digital MVR files and Body Worn Camera recordings a month per subordinate that have been uploaded onto the server by their assigned officers. This is to assist in the periodic assessment of the officer's performance. The review will be documented in the officers' chronological record.

- (4) All digital MVR files will be maintained by the department for a period of 90 days from the date the file was transferred into the storage server. Digital MVR files may be archived to DVD disks for longer periods, if deemed necessary.
- (5) The evidence custodian will maintain a logbook for all DVD disks created by the department burner. Officers who require a DVD for official business will be required to contact the evidence custodian for a copy and will be required to sign out the DVD from the evidence custodian.
- (6) Supervisors assigned to the Office of Professional Standards have the authority to remove digital MVR media cards from vehicles and may review past recordings at any time.

C. Body Worn Cameras

1. A body worn camera (BWC) is an “on-the-body” video and audio recording system assigned to an officer as an additional means of documenting law enforcement activities.
 - (a) When and How to Use the Body Worn Camera
 - (1) Officers will activate the Body Worn Camera (BWC) to record all calls for service and during all law enforcement-related encounters and activities to include but not limited to, special on duty assignments or while working in an off-duty capacity.
 - (a) Examples of “law enforcement-related encounters and activities” include traffic stops, arrests, searches, follow-up investigations, interrogations or interviews, and pursuits. This list is intended as an example and should in no way be interpreted as all-inclusive.
 - (2) The Body Worn Camera (BWC) will remain activated until the activity is completed in order to ensure the integrity of the recording.
 - (a) If interruption occurs during the recording, the officer will document the reason for the interruption of the recording in a report. Documentation can be in the form of an incident report, supplemental report, or other means approved by the Chief of Police.
 - (b) If a report was completed and it is later discovered that the body worn camera (BWC) was inoperable, a supplemental report will be completed.
 - (3) If the officer fails to activate the Body Worn Camera (BWC) in accordance with this policy, the officer will document why a recording was not made. Documentation can be in the form of an incident report, supplemental report, or other means approved by the Chief of Police.
 - (4) If an officer fails to initiate a recording in accordance with this policy, or deactivates a recording outside the scope of this policy, the officer will be subject to disciplinary action.
 - (5) Personal use of the Body Worn Camera (BWC) equipment on or off duty is prohibited.

D. Procedures for Body Worn Camera Use

1. Body Worn Camera (BWC) equipment is issued primarily to uniformed personnel with the rank of Lieutenant and below as authorized by this agency. Officers, who are assigned Body Worn Camera (BWC) equipment, must use the equipment unless authorized by supervisory personnel.
2. Police personnel will use only Body Worn Camera (BWC) equipment issued by this department. The Body Worn Camera (BWC) will be worn front facing on the exterior of the uniform shirt between the duty belt and the collar. The Body Worn Camera (BWC) equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment, is the sole property of the North Charleston Police Department.
3. Police personnel who are assigned Body Worn Camera (BWC) must complete an agency approved and/or provided training program to ensure proper use and operation. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration, and performance, and to incorporate changes, updates, or other revisions in policy and equipment.

- (a) This training should include supervisors whose officers wear cameras, records/evidence management personnel, training personnel, Office of Professional Standards, etc.
- 4. Body Worn Camera (BWC) equipment is the responsibility of the individual officer and will be used with reasonable care to ensure proper functioning
- 5. Officers will inspect and test the Body Worn Camera (BWC) prior to each shift in order to verify proper functioning. Officers will provide written notification, via memorandum or email to their immediate supervisor, of any defect in the operation of the equipment. The immediate supervisor will forward the communication to the Support Services Bureau. Repairs to equipment will be made by authorized technicians and documented in maintenance records.
- 6. Officers assigned the Body Worn Camera (BWC) for field use will not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner Body Worn Camera (BWC) recordings.
- 7. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
- 8. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing the video file.
- 9. If an officer wearing a Body Worn Camera (BWC) responds to a law enforcement activity that results in written documentation the officer will notate the wearing of the Body Worn Camera (BWC).
- 10. Where practical, officers will inform victims and/or witnesses that they are being recorded.
 - (a) Victims and/or witnesses may decline consent in terms of deciding not to speak with officers, but officers will not turn off the Body Worn Camera (BWC) in order to speak to them.
 - (b) Furthermore, officers should use discretion where there is a victim of rape or sexual assault. Additionally, to respect the dignity of others, unless articulable circumstances exist, officers will try to avoid recording persons who are nude or when sensitive human areas are exposed.
 - (c) If asked by members of the public if they are being recorded, officers will be forthcoming about its use.
- 11. Digital media files containing information that may be of value for case prosecution will be identified appropriately and then transferred to Digital Video Disc (DVD) via a department DVD burner. DVD discs will be labeled with the related case number, incident date, and the investigating officer's name. These discs will then be secured and placed into the North Charleston Police Department Property Room in accordance with Policy O-08 (Property and Evidence). Supervisors with the rank of Sergeant and above are authorized to export DVD disks. Officers are authorized to export DVD disks for evidence purposes only.

E. Restrictions on Using the Body Worn Camera(BWC)

- 1. Body Worn Camera (BWC) will be used only in conjunction with law enforcement activities. The Body Worn Camera (BWC) will not be used to record:
 - (a) Any police personnel surreptitiously (in secret) without the permission of the Chief of Police.
 - (b) Encounters with undercover officers or confidential informants.
 - (c) The Body Worn Camera (BWC) will not be activated when the officer is on break or otherwise engaged in personal activities or when the officer is in a location where there is reasonable expectation of privacy, such as restroom, locker room, squad room.
 - (d) Body Worn Camera (BWC) will not be used for the purposes that are counter to or inconsistent with the North Charleston Police Department mission and core values or in ways that are contrary to federal, state, and local law.

F. Storage

- 1. All Body Worn Camera (BWC) files will be securely downloaded periodically and no later than the end of each shift. Each file will contain information related to the date, (BWC) identifier, and

assigned officer.

2. All recorded media, recorded images and audio recordings created by Body Worn Camera (BWC) equipment is the property of the North Charleston Police Department. Recorded media may be disseminated to courts, prosecutors, and other law enforcement agencies for the purpose of court proceedings and investigations. Duplication or dissemination of audio/video recordings outside of the agency is prohibited without the prior approval of the Chief of Police or his/her designee or in accordance with State Law.
3. All access to Body Worn Camera (BWC) data (images, sound, and metadata) must be specifically authorized by the Chief of Police or designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
4. Files are securely stored in accordance with state records retention laws and no longer than useful for purposes of training or for use in an investigation or prosecution.

G. Supervisory Responsibilities

1. Supervisory personnel are responsible and have discretion for the assignment of Body Worn Camera (BWC) based upon the availability of the equipment and the needs of the agency.
2. Supervisory personnel will ensure that officers equipped with Body-Worn Camera (BWC) devices utilize them in accordance with policy and procedures defined herein.
3. Supervisors will randomly review a minimum combination of five (5) Body Worn Camera (BWC) and digital MVR recordings a month per subordinate to ensure that equipment is operating properly, that officers are using the devices appropriately and in accordance with policy, and identify any areas in which additional training or guidance is required. The review will be documented in the officers' chronological record.

H. Release of Body Worn Camera Recordings

1. Recording of any arrest or violations of offenses listed in the S.C. Preservation of Evidence Act, S.C. Code 17-28-320, the expungement statute of S.C. Code 17-1-40, or any other statute, regulation, or case law will follow the retention requirements outlined therein.
2. Data recorded by a body-worn camera is not a public record subject to disclosure under the Freedom of Information Act:
 - (a) The State Law Enforcement Division, Federal Agencies, U.S. Attorney, Attorney General, and circuit solicitors may request and must receive data recorded by a body-worn camera for any legitimate criminal justice purpose.
 - (b) A law enforcement agency, the State Law Enforcement Division, Federal Agencies, U.S. Attorney, Attorney General, and circuit solicitors may release data recorded by a body-worn camera in its discretion.
 - (c) A law enforcement agency may request and must receive data recorded by a body-worn camera if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of a law enforcement officer;
 - (d) In addition to the persons who may request and must receive data recorded by a body-worn camera provided in (a), the following are also entitled to request and receive such data pursuant to the South Carolina Rules of Criminal Procedures, the South Carolina Rules of Civil Procedures, or a court order:
 - (1) a person who is the subject of the recording;
 - (2) a criminal defendant if the recording is relevant to a pending criminal action;
 - (3) a civil litigant if the recording is relevant to a pending civil action;
 - (4) a person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related
 - (5) A parent or legal guardian of a minor or incapacitated person described in sub item (1) or (2); and
 - (6) An attorney for a person described in sub items (1) through (5).

I. Retention of Body Worn Camera Recording Files

1. All digital Body Worn Camera (BWC) files will be maintained by the department for a period of 90 days from the date the file was transferred into the storage server. Digital Body Worn Camera (BWC) files may be archived to DVD disks for longer periods, if deemed necessary.